

COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

SECOND SET OF INFORMATION REQUESTS OF  
FIBER TECHNOLOGIES NETWORKS, L.L.C.  
TO SHREWSBURY'S ELECTRIC LIGHT PLANT  
D.T.E. 01-70

December 20, 2001

Witness Responsible: Thomas R. Josie, General Manager, SELP

FIBERTECH 3-1: Please describe any experience Mr. Josie has drafting or negotiating pole attachment agreements or pole attachment rates.

RESPONSE: SELP objects to this request on the grounds that it seeks information not relevant to the scope of these proceedings, i.e., a pole attachment dispute between Fibertech and SELP, and has nothing to do with whether Fibertech is a "licensee" or whether its fiber is an "attachment." Without waiving its objection, SELP responds that Mr. Josie negotiated pole attachment agreements with MCI WorldCom (initially with Digital Equipment Corporation), Verizon and NEESCom.

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FIBERTECH 3-2: Refer to page 1, line 16 through page 2, line 2 of the Josie Testimony.

(a) Please state (1) when SCC began providing Internet service and long-distance telephone service, (2) the number of customers for each such service, and (3) whether such customers include commercial customers.

(b) Please state whether customers of traditional CATV video services include bulk customers (such as multiple dwelling unit owners, developers, or institutional and commercial establishments such as hospitals and hotels) and, if so, please state the number of such bulk customers SCC has.

RESPONSE: SELP objects to this request on the grounds that it is overbroad, unduly burdensome and seeks information not relevant to the scope of these proceedings, i.e., a pole attachment dispute between Fibertech and SELP, and has nothing to do with whether Fibertech is a "licensee" or whether its fiber is an "attachment." Without waiving this objection, SELP responds as follows.

(a) (1) SCC started offering Internet service in the last quarter of 1999 and long distance telephone service during the second quarter of 1998. (2) SCC has approximately 2700 Internet service customers and 1020 long distance telephone service customers. (3) Yes.

(b) SELP cannot answer whether it has "bulk customers" but can respond that it serves three motels with a total of 148 units with electric and CATV video services.

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DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

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FIBER TECHNOLOGIES NETWORKS, L.L.C.  
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December 20, 2001

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FIBERTECH 3-3: Refer to page 2, lines 5 through 12 of the Josie Testimony.

- (a) Please identify the members of the SELP Board of Commissioners.
- (b) Please produce copies of the form of service agreements with customers of electric, cable television, Internet, and long-distance telephone service.

RESPONSE: (a) Mr. Clifford T. Jefferson, Jr.; Ms. June Tomaiolo; Mr. Robert Lutz; Mr. Anthony Trippi; Mr. Stanley Davis.

(b) SELP objects to this request on the grounds that it is overbroad, unduly burdensome and seeks information not relevant to the scope of these proceedings, i.e., a pole attachment dispute between Fibertech and SELP, and has nothing to do with whether Fibertech is a "licensee" or whether its fiber is an "attachment." Without waiving this objection, SELP responds as follows. SELP does not have "service agreements" per se. Copies of the following documents responsive to your request are attached: SELP's terms and conditions; a SCC work order; Internet service policies; and application for long distance service.

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FIBER TECHNOLOGIES NETWORKS, L.L.C.  
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D.T.E. 01-70

December 20, 2001

Witness Responsible: Thomas R. Josie, General Manager, SELP

FIBERTECH 3-4: Refer to page 3, lines 10 through 18 of the Josie Testimony.

(a) Please state what were the "certain terms and conditions" on which SELP might permit fiber systems to attach to its poles, and produce any documents reflecting or referring to such terms and conditions.

(b) Please produce the opinion of SELP's counsel referred to, and state whether such opinion has been furnished to (1) the Town of Shrewsbury or any its employees or agents, (2) any other municipal light department, and (3) any other person not employed by SELP.

(c) If the answer to (b) is affirmative in any respect, please identify each person or entity to which it was furnished and state when and why it was furnished.

RESPONSE: (a) Please see the "Proposed Terms and Conditions" documents provided provided in response to Fibertech 1-1.

(b) and (c) SELP objects to these requests on the grounds that they are irrelevant, and call for the production of documents protected by the attorney-client privilege and the attorney work-product doctrine.

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DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

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December 20, 2001

Witness Responsible: Thomas R. Josie, General Manager, SELP

FIBERTECH 3-5: Refer to page 3, line 21 through page 4, line 1 of the Josie Testimony. Please state how Mr. Josie or SELP determined what are "market rates" for the rights to attach to SELP's poles, what such rates are, and produce all documents reflecting or referring to such rates.

RESPONSE: The Josie Testimony does not indicate that Mr. Josie or SELP determined any "market rates." SELP has no other information responsive to this request.

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FIBER TECHNOLOGIES NETWORKS, L.L.C.  
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December 20 2001

Witness Responsible: Thomas R. Josie, General Manager, SELP

FIBERTECH 3-6: Refer to page 4, line 12 of the Josie Testimony. Please explain the basis for the \$4.80 per pole rate referred to.

RESPONSE: The basis for this rate is the formula used by the DTE. This is the rate paid by Verizon to SELP.

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FIBER TECHNOLOGIES NETWORKS, L.L.C.  
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December 20, 2001

Witness Responsible: Thomas R. Josie, General Manager, SELP

FIBERTECH 3-7: Refer to page 5, lines 16 through 17 of the Josie Testimony. Please describe the terms and conditions of the proposal referred to, and produce all documents reflecting or referring to such proposal.

RESPONSE: Please refer to the response to Fibertech 3-4.

COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

SECOND SET OF INFORMATION REQUESTS OF  
FIBER TECHNOLOGIES NETWORKS, L.L.C.  
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December 20, 2001

Witness Responsible: Thomas R. Josie, General Manager, SELP

FIBERTECH 3-8: Refer to page 6 lines 20 through 21 of the Josie Testimony.

- (a) Please define "phone services" as used therein.
- (b) Please specify whether such services include only services to end users that use a telephone.

RESPONSE: (a) Mr. Josie uses the term "phone services" to mean POTS, or plain old telephone service.

- (b) SELP objects to this question on the grounds that it is unintelligible.



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December 20, 2001

Witness Responsible: Thomas R. Josie, General Manager, SELP

FIBERTECH 3-9: Please refer to page 8, line 6 of the Josie Testimony.

(a) Please produce any documents reflecting or referring to the advice of counsel referred to.

(b) Please state whether such advice has been furnished in any form to (1) the Town of Shrewsbury or any of its employees or agents, (2) any other municipal light department, and (3) any other person not employed by SELP.

(c) If the answer to (b) is affirmative in any respect, please identify each person or entity to which it was furnished and state when and why it was furnished.

RESPONSE: SELP objects to this request in its entirety on the grounds that it is repetitive, overbroad, unduly burdensome, irrelevant and calls for the production of documents protected by the attorney-client privilege and the attorney work-product doctrine.

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DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

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D.T.E. 01-70

December 20, 2001

Witness Responsible: Thomas R. Josie, General Manager, SELP

FIBERTECH 3-10: Please identify the handwriting on the document attached as  
Attachment A.

RESPONSE: The handwriting belongs to Mr. Josie.

COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

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TO SHREWSBURY'S ELECTRIC LIGHT PLANT  
D.T.E. 01-70

December 20, 2001

Witness Responsible: Thomas R. Josie, General Manager, SELP

FIBERTECH 3-11: Refer to the document attached as Attachment B. Please identify the author and date of this document and the handwriting that appears on the second page of the document, and explain the purpose for which this document was written.

RESPONSE: The author is Mr. Josie; the handwriting is Mr. Josie's, and the document was written for the purpose of negotiating with Fibertech

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DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

SECOND SET OF INFORMATION REQUESTS OF  
FIBER TECHNOLOGIES NETWORKS, L.L.C.  
TO SHREWSBURY'S ELECTRIC LIGHT PLANT  
D.T.E. 01-70

December 20, 2001

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FIBERTECH 3-12: Refer to the document attached as Attachment C. Please identify the author and date of this document, and explain the purpose for which this document was written.

RESPONSE: The author is Mr. Josie; and the document was written for the purpose of negotiating with Fibertech. The date would appear to be that indicated on the bottom left hand corner of the document.

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Witness Responsible: Thomas R. Josie, General Manager, SELP

FIBERTECH 3-13: Refer to SELP's response to Fibertech 1-2. Explain the basis on which SELP concludes that MCI WorldCom is a company that appears to transmit intelligence by telephone to end-users in Massachusetts, and produce all documents referring to or reflecting such information to that effect.

RESPONSE: The basis for Mr. Josie's conclusion is that as a resident of Shrewsbury, he has purchased long distance telephone services from MCI WorldCom.

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FIBERTECH 3-14: Refer to SELP's response to Fibertech 1-5.

(a) With respect to the use of fiber optic cable by SELP's electric division and SCC, please state (a) the number of fiber miles for each entity, (b) how long such entity has used fiber optic cable and the uses of such fiber optic cable.

(b) Please state whether this fiber optic cable is used to transmit intelligence.

(c) Please specify the electronic equipment used to activate these fibers and transmit intelligence, if any.

(d) Please state whether this fiber optic cable has any uses other than to transmit intelligence.

RESPONSE: SELP objects to this request on the grounds that it seeks information not relevant to the scope of these proceedings. Without waiving its objections, SELP responds that it has already provided some of the information sought in this request in response to Fibertech 1-5.

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DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

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Witness Responsible: Thomas R. Josie, General Manager, SELP

FIBERTECH 3-15: Please state whether SELP is aware of any telecommunications providers that offer leasing of fiber optic capacity.

RESPONSE: SELP objects to this request on the ground that it is unintelligible that it does not contain a definition of the term "telecommunications providers."

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Witness Responsible: Thomas R. Josie, General Manager, SELP

FIBERTECH 3-16: Please state whether SELP takes the position that the fact that such providers lease fiber optic capacity means that such providers are not common carriers.

RESPONSE: SELP objects to this request on the grounds that it appears to call for a legal conclusion; however SELP further objects to the question on the grounds that it does not understand the question.